

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

DR. WILLIAM GARDNER, DDS,

Plaintiff,

v.

Federal Case No. 1:23-cv-00189  
State Case No. D-503-CV-2023-00055

CHARLES SCHUMACHER, DDS;  
DAVID WARREN III, DDS; BURRELL  
TUCKER DDS; LEO PAUL BALDERAMOS,  
DDS; JOLYNN GALVIN DDS; ERMELINDA  
BACA, RDH; and MELISSA BARBARA, RDH

Defendants.

**NOTICE OF REMOVAL OF CIVIL ACTION**

Defendants Charles Schumacher, David Warren III, Burrell Tucker, Leo Paul Balderamos, Jolynn Galvin, Ermelinda Baca, and Melissa Barbara (collectively, “Defendants”) through their attorneys, Park & Associates, LLC (Alfred A. Park and Taylor M. Lueras), hereby submits this Notice of Removal of Civil Action pursuant to 28 U.S.C. § 1331. Defendants state as follows in support of this Notice:

1. Pursuant to 28 U.S.C. § 1441, any civil action brought in a State Court of which the District Courts of the United States have original jurisdiction may be removed by the Defendants to the District Court of the United States for the district and division embracing the place where such action is pending.

2. A defendant wishing to remove an action to a federal District Court may remove the action within thirty (30) days of service. 28 U.S.C. § 1446 (b)(1).

3. On or about January 23, 2023, Plaintiff filed this action in the Fifth Judicial District Court, County of Eddy, State of New Mexico, as Case No. D-503-CV-2023-00055, which was served on Defendant Balderamos on February 2, 2023. Subsequently the remaining Defendants

were served. Plaintiff's Complaint contains a cause of action entitled Deprivation of Due Process Under Color of State Law, asserting violations of his rights under the 14<sup>th</sup> Amendment to the United States Constitution through 42 U.S.C. § 1983. See Plaintiff's Complaints, attached as **Exhibit A**, ¶¶ 17-23.

5. As the Complaint was served on Defendant Balderamos on February 2, 2023, the earliest date of service to any Defendant, this Notice is therefore timely.

6. Because all Defendants have been served and are removing to federal court, all Defendants have therefore consented to this removal. No Defendants remain to be served.

7. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1331 as the Complaint alleges claims for violations of federal rights.

8. The Court has jurisdiction over Plaintiffs' additional claims pursuant to 28 U.S.C. §§ 1367 and 1441(c).

9. This Notice of Removal will be served on Plaintiff promptly after it is filed.

10. A Notice of Filing Removal, along with a true and correct copy of this Notice of Removal of Civil Action, will be filed with the Clerk of the Fifth Judicial District Court, County of Eddy, State of New Mexico, promptly after the filing of this Notice of Removal.

11. A Civil Cover Sheet is attached hereto as **Exhibit B**.

Respectfully Submitted,

PARK & ASSOCIATES, LLC

/s/ Taylor M. Lueras

Alfred A. Park

Taylor M. Lueras

*Attorneys for Defendants*

3840 Masthead St. NE

Albuquerque, NM 87109

505-246-2805

I hereby certify a true and correct copy  
of the above pleading was served by the  
Courts CM/ECF system to all parties of record  
on this 6<sup>th</sup> day of March 2023 to the following:

Gary Boyle  
15 Spirit Ct.  
Santa Fe, NM 87506  
(505) 989-5057

/s/ Taylor M. Lueras

Taylor M. Lueras